

REMARKS

Claims 1-10 are pending. Applicants have cancelled claim 10 without prejudice. Applicants have deleted the term "solvate" from claims 1 and 6-9.

Applicants wish to bring to the Office's attention that claim 10 is now being presented in a continuation application that is being filed on even date herewith.

No new matter is introduced by these amendments. The foregoing amendments are being made for the sole purpose of expediting prosecution of the present application.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 1-9 are rejected for allegedly failing to comply with the enablement requirement. The Office states (Office Action, page 2):

[T]he specification, while being enabling for a compound, composition or pharmaceutically acceptable salt, does not reasonably provide enablement for the solvate.

Applicants respectfully disagree with the grounds for the rejection; however, to expedite prosecution, Applicants have deleted the term "solvate" from claims 1 and 6-9. In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection.

Rejections under 35 U.S.C. § 102(b)

Claim 10 is rejected for allegedly being anticipated by Willis, *et al.* (WO 2001/025242) and Bonnert, R. (WO 2002083693). Applicants respectfully disagree with the grounds for the rejection; however, to expedite prosecution, Applicants have cancelled claim 10.

Rejections under 35 U.S.C. § 102(e)

Claim 10 is rejected for allegedly being anticipated by Bonnert, *et al.* (WO 2004/026880). Applicants respectfully disagree with the grounds for the rejection; however, to expedite prosecution, Applicants have cancelled claim 10.

Double Patenting

Claim 10 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claim 1 of Bonnert, *et al.* (WO 2004/026880). Applicants respectfully disagree with the grounds for these rejections; however, to expedite prosecution, Applicants have cancelled claim 10.

CONCLUSION

Applicants submit that all claims are in condition for allowance.

The fee for the three month extension fee (\$1,050) is being paid concurrently herewith on the Electronic Filing System (EFS) by way of a Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 06275-514US1.

Respectfully submitted,

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